

These minutes were approved by the Zoning Administrator 7-29-2019

**CITY OF SAN CLEMENTE
MINUTES OF THE REGULAR MEETING
OF THE ZONING ADMINISTRATOR
JULY 18, 2019**

1. CALL TO ORDER

The Regular Meeting of the City of San Clemente Zoning Administrator was called to order on July 18, 2019 at 3:00 p.m. in Conference Room A of the Community Development Department, located at 910 Calle Negocio, San Clemente, California, by Zoning Administrator (ZA) Adam Atamian.

Staff Present: Adam Atamian, Zoning Administrator; Stephanie Roxas, Senior Planner; Katie Crocket, Associate Planner; David Carrillo, Assistant Planner; Lisa Acosta, Office Specialist I

2. MINUTES

- A. The minutes of the Zoning Administrator meeting of June 20, 2019 were received and filed.

3. ORAL AND WRITTEN COMMUNICATION

None

4. PUBLIC HEARINGS

- A. **133 West Esplanade – Minor Architectural Permit 19-071 – Espino Addition**
(Carrillo)

A request to consider a 382 sq. ft. living space addition to a nonconforming single-family residence located in the Residential Low Zone and Coastal Zone Overlay District, and in the Coastal Exclusion Zone per Exclusion Order No. E-82-1.

Assistant Planner, David Carrillo, summarized the staff report.

Scott Hudgins, Architect, was present and available for questions.

ZA Atamian asked staff to clarify if there are any code cases, past or current, for this property requiring Condition 5.13 of the Conditions of Approval, requiring the property owner to ensure that all on-site fencing is compliant with the SCMC with

regard to the total allowed height prior to the final inspection and final permit signoff.

Staff explained there is a closed code case, but there is ongoing concern that a fence may be over the height limit and this was confirmed through the review. Conceptual plans show the fences will be modified to meet height limits.

ZA Atamian opened the public hearing.

Alan Korsen, resident, is concerned 1) the retaining wall on the proposed project may encroach onto his property, and 2) during the construction, the Juniper tree that is close to property line may be damaged or killed. He also would like to verify the property line is on the backside of the sidewalk, if there are property markers, and would like a copy of the plans showing the property line.

Georgette Korsen, resident, has allowed the homeowner of the proposed project to use the portion of their 5-foot setback and would like to ensure the proposed retaining wall will not encroach onto her property. Also, has requested the Juniper tree close to the property line not be killed or the roots killed as this tree camouflages the roofline of the corner of her house.

ZA Atamian closed the public hearing.

ZA Atamian confirmed with staff that the boundary survey is available for viewing, but due to the plans being stamped and copyrighted to a Civil Engineer, cannot be duplicated or photographed. Additionally, he confirmed with Scott Hudgins that the project will not encroach onto Alan Korsen's property and there will be stakes and string for mason's onsite prior to construction.

ZA Atamian approved the project based on the following findings: The project maintains the two-story scale of the residence and does not exceed the zone's height limit of 25 feet. The project is in character with the scale and size of one- and two-story houses in the neighborhood and does not create negative visual impacts from the street. The living and garage space additions are located at the front of the property. The proposed height follows the site's topography and reduces massing impacts as viewed from the street. The building's scale, mass, and setbacks are in character with and compatible with adjacent properties.

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

Action: The Zoning Administrator approved and adopted Resolution ZA 19-010, Minor Architectural Permit 19-071, Espino Addition, subject to the Conditions of Approval.

B. 98 Avenida Del Mar – Minor Conditional Use Permit 19-097/Minor Cultural Heritage Permit 19-098 – West of Artifex (Crockett)

A request to allow: 1) a stand alone tasting room for the sale of beer with indoor and outdoor seating; 2) exterior building modifications; and 3) six parking waivers, in the Mixed Use 3.0 Zone and Architectural and Central Business Overlays.

Associate Planner, Katie Crockett, summarized the staff report and several public comments received related to noise, parking, and procedural matters. To mitigate the noise concern, staff is recommending Condition 7.3 of the Conditions of Approval be modified requiring the patio seating area be closed at 10:00 p.m.

Applicants, Tom Cordato and Nicholas Cordato, were present and available for questions.

ZA Atamian requested information on peak times and peak occupancy areas observed in the parking study as well as the available parking spaces near the project site. ZA Atamian commented that while there are multiple privately owned parking lots in the project vicinity, there appears to only be 14 public parking spaces within 300 feet of the site.

Ms. Crockett stated the peak time occurred at 1:00 pm on Thursday afternoon in the Downtown Parking Study area.

ZA Atamian opened the public hearing.

Michael Kaupp, resident and former Planning Commissioner, is concerned with the impacts of noise, parking, and the process of review of the subject application. He is the owner of the properties at 104 and 106 Avenida Del Mar consisting of approximately 6000-7000 square feet of retail space on the first floor and eight apartments on the second and third floors which are located 18 feet away from project. He also questioned the description and determination of the use of the project as a restaurant as it is not a minor shift historically in the downtown area and expressed that this interpretation should have come from the Planning Commission.

Alan Korsen, resident, agrees with Michael Kaupp's assessment. Mr. Korsen was Co-Chair to the General Plan Advisory Committee (GPAC) that rewrote the General Plan several years ago and spent a lot of time on parking. He does not know where the parking study shows available spaces, but if one were to go to the downtown area during the heaviest dining hours, there is not much parking available. He suggested an appropriate measure would be for this project to be reviewed by a higher-level review authority.

ZA Atamian closed the public hearing.

ZA Atamian recognized Mr. Kaupp's comments made about the minor interpretation. However, he stated review of the City Planner interpretations is outside the scope of the Zoning Administrator's review authority, furthermore, the interpretation was made by the City Planner on July 2, 2019, a formal appeal was not filed within the required timeline related to that decision, and at the time of this hearing, the interpretation stands.

ZA Atamian acknowledged noise concerns related to the nearby residential units, and he stated that the condition of approval requiring the outdoor patio to close by 10:00 p.m. is appropriate given the sensitive nearby land uses and is consistent with conditions required on similar restaurants. ZA Atamian further discussed noise impacts related to the windows over the alley, and he recommended closing the windows to mitigate noise at 10:00 p.m. or potentially as early as 8:00 p.m. (This would be an added condition not currently in the draft Resolution).

Applicant, Tom Cordato, responded to public comments, and expressed a preference for allowing the outdoor patio to operate until 11:00 p.m., rather than 10:00 p.m. as restricted by the condition of approval.

ZA Atamian discussed Condition 7.8 and clarified that reasonable background noise is only permitted if the applicant applies for a separate CUP subject to Planning Commission review and approval. The applicant expressed concerns over the condition, but acknowledged that any televisions will be muted to comply.

ZA Atamian discussed bollards and Condition 4.15 requiring use of a more decorative design. He discussed incorporating bicycle parking functionality into the bollard as well, if technically feasible, especially since parking waivers are being requested.

Staff suggested modified language for Condition 4.15 to address ZA Atamian's suggestion: "Decorative elements and/or bike rack functionality shall be incorporated into the design of the safety bollard at the corner of the patio if determined to be technically feasible by staff. Decorative elements shall be consistent with the direction of the DRSC to the satisfaction of the City Planner."

ZA Atamian expressed concern over pedestrian safety through the narrow alley that leads to the privately-owned parking lot, and he encouraged the applicants to direct customers to take the safer path to the parking lot via public sidewalks.

ZA Atamian stated he could not make the findings for approving six parking waivers, but expressed the possibility of making the findings to approve fewer parking waivers. He stated the Zoning Ordinance allows property owners to

request parking waivers, and not the applicant, the proposed business's owner. He clarified that the owner approval granted to the applicant only authorizes them to apply for the Minor Conditional Use Permit, and it does not expressly grant them authority to act as an agent in the negotiation and procurement of parking waivers. ZA Atamian further stated that there appears to only be five public parking spaces available in the project vicinity, which would be shared by multiple tenants in the area. He reiterated the Code provision which states that "the availability of private parking near a project is not a basis for granting waivers," and expressed concern that the application does not demonstrate there is adequate public parking to support the request for six parking waivers.

ZA Atamian took a 5 minute break for recess at 4:27 p.m. and the meeting will reconvene at 4:32 p.m.

The Zoning Administrator meeting reconvened at 4:33 p.m.

Applicant, Tom Cordato, requested clarification on potential options for their application requests.

ZA Atamian stated that insufficient information has been provided to support approval of six parking waivers. However, evidence in the report demonstrates that two parking waivers could be supported, which would require removal of restaurant seating to reduce the number of parking space waivers. ZA Atamian acknowledged that the applicants may require further time to explore the feasibility of operating a business with a reduced occupancy, which would impact their financial projections.

The applicants requested clarification on the timeline, procedures, submittal requirements, and fee for filing an appeal. Additionally, they requested clarification on how reducing the indoor seating count would impact the proposed outdoor seating area.

Associate Planner Crockett clarified that if the floor plan was modified to have fewer than 33 indoor seats, only eight outdoor seats would be permitted without requiring additional parking.

Associate Planner Crockett and Senior Planner Roxas stated that scheduling an appeal hearing before the City Council in August would not be feasible due to report deadlines, additional submittals required from the applicant, and the City Council agenda already being impacted with other items.

ZA Atamian reiterated that due to the adjacent residential units and concerns over noise impacts, reducing the size of the outdoor area would improve the Zoning Administrator's ability to make required findings related to health, safety, and compatibility. ZA Atamian also stated a smaller outdoor patio would make the applicant's request for a public right-of-way encroachment unnecessary.

ZA Atamian recommended the applicant and staff analyze public parking spaces in the project area, identify whether more public parking spaces are available in a reasonable vicinity, and whether peak parking usage times identified for the entire Downtown Parking Study area are appropriate for the 300-foot radius area around the subject site to justify the issuance of parking waivers. ZA Atamian also recommended the applicant consider revising the floor plan to reduce the number of parking waivers requested.

The applicants discussed options and requested a continuance of this Public Hearing to the next Zoning Administrator meeting.

The Zoning Administrator continued this item to the regular scheduled Zoning Administrator meeting of August 22, 2019.

5. NEW BUSINESS

None

6. OLD BUSINESS

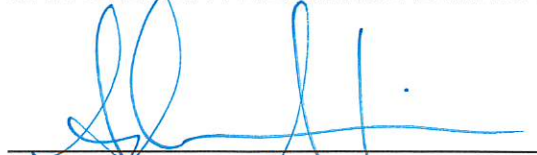
None

7. ADJOURNMENT

The meeting adjourned at 5:02 p.m. to the Regular Meeting of the Zoning Administrator which will be held Thursday, August 22, 2019 at 3:00 p.m., at the Community Development Department, Conference Room A, located at 910 Calle Negocio, Suite 100, San Clemente, California as the August 8, 2019 meeting was cancelled due to a lack of business.

Respectfully submitted,

SAN CLEMENTE ZONING ADMINISTRATOR



Adam Atamian, Zoning Administrator